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Agenda item 67 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Argentina, Azerbaijan, Bangladesh, Belize, Benin, Bolivia, Brazil, Burkina Faso, Cape Verde, Chile, Congo, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, El Salvador, Egypt, Ethiopia, Gambia, Ghana, Guatemala, Honduras, Kenya, Kyrgyzstan, Lebanon, Mali, Mexico, Morocco, Niger, Nigeria, Paraguay, Peru, Philippines, Saint Vincent and the Grenadines, Senegal, Tajikistan and Uruguay: revised draft resolution

Protection of migrants

The General Assembly,

Recalling all its previous resolutions on the protection of migrants, the most recent of which is resolution 60/169 of 16 December 2005, and recalling also Commission on Human Rights resolution 2005/47 of 19 April 2005,

Reaffirming the Universal Declaration of Human Rights,[1] which proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

Reaffirming also that everyone has the right to freedom of movement and residence within the borders of each State, and to leave any country, including his own, and return to his country,

Recalling the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,[2] the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[3] the Convention on the Elimination of All Forms of Discrimination against Women,[4]

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] United Nations, *Treaty Series*, vol. 1465, No. 24841.

[4] Ibid., vol. 1249, No. 20378.

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the Convention on the Rights of the Child,[5] the International Convention on the Elimination of All Forms of Racial Discrimination[6] and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[7]

Recalling also the provisions concerning migrants contained in the outcomes of all major United Nations conferences and summits,

Welcoming the establishment of the Human Rights Council, which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, without distinction of any kind and in a fair and equal manner,

Welcoming also the convening of the High-level Dialogue on International Migration and Development, held in New York on 14 and 15 September 2006 with the purpose of discussing the multidimensional aspects of international migration and development, which recognized the relationship between international migration, development and human rights,

Bearing in mind that policies and initiatives on the issue of migration, including those that refer to the orderly management of migration, should promote holistic approaches that take into account the causes and consequences of the phenomenon, as well as the full respect for the human rights and fundamental freedoms of migrants,

Noting that many migrant women are employed in the informal economy and in less skilled work compared with that of men, which puts those women at greater risk of abuse and exploitation,

Concerned about the large and growing number of migrants, especially women and children, who place themselves in a vulnerable situation by attempting to cross international borders without the required travel documents, and underlining the obligation of States to respect the human rights of those migrants,

Underlining the importance for States, in cooperation with non-governmental organizations, to undertake information campaigns aimed at clarifying opportunities, limitations and rights in the event of migration, so as to enable everyone to make informed decisions and to prevent them from utilizing dangerous means to cross international borders,

Emphasizing the global character of the migratory phenomenon, the importance of international, regional and bilateral cooperation and dialogue in this regard, as appropriate, and the need to protect the human rights of migrants, particularly at a time in which migration flows have increased in the globalized economy and take place in a context of new security concerns,

1. *Requests* States effectively to promote and protect the human rights and fundamental freedoms of all migrants, regardless of their immigration status, especially those of women and children;

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[5] Ibid., vol. 1577, No. 27531.

[6] Resolution 2106 A (XX), annex.

[7] United Nations, *Treaty Series*, vol. 2220, No. 39481.

2. *Takes note with interest* of the interim report of the Special Rapporteur on the human rights of migrants;[8]

3. *Calls upon* States that have not done so to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families[9] as a matter of priority, and requests the Secretary-General to continue his efforts to raise awareness and promote the Convention;

4. *Urges* States parties to the United Nations Convention against Transnational Organized Crime[9] and the supplementing protocols thereto, namely, the Protocol against the Smuggling of Migrants by Land, Sea and Air[10] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[11] to implement them fully, and calls upon States that have not done so to consider ratifying them as a matter of priority;

5. *Takes note* of the report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its third and fourth sessions;[12]

6. *Requests* all States, international organizations and relevant stakeholders to take into account in their policies and initiatives on migration issues the global character of the migratory phenomenon and to give due consideration to international, regional and bilateral cooperation in this field, including by undertaking dialogues on migration that include countries of origin, destination and transit, as well as civil society, including migrants, with a view to addressing, in a comprehensive manner, inter alia, its causes and consequences and the challenge of undocumented or irregular migration, granting priority to the protection of the human rights of migrants;

7. *Expresses concern* about legislation and measures adopted by some States that may restrict the human rights and fundamental freedoms of migrants, and reaffirms that when exercising their sovereign right to enact and implement migratory and border security measures, States have the duty to comply with their obligations under international law, including international human rights law, in order to ensure full respect for the human rights of migrants;

8. *Requests* States to adopt concrete measures to prevent the violation of the human rights of migrants while in transit, including in ports and airports and at borders and migration checkpoints, to train public officials who work in those facilities and in border areas to treat migrants respectfully and in accordance with the law, and to prosecute, in conformity with applicable law, any act of violation of the human rights of migrants, inter alia, arbitrary detention, torture and violations of the right to life, including extrajudicial executions, during their transit from their country of origin to the country of destination and vice versa, including their transit through national borders;

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[8] A/61/324.

[9] Resolution 55/25, annex I.

[10] Ibid., annex III.

[11] Ibid., annex II.

[12] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 48* (A/61/48).

9. *Calls upon* States to address international migration through international, regional or bilateral cooperation and dialogue and through a comprehensive and balanced approach, recognizing the roles and responsibilities of countries of origin, transit and destination in protecting and promoting the human rights of migrants and avoiding approaches that may aggravate their vulnerability;

10. *Strongly condemns* the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them, including on the basis of religion or belief, and urges States to apply the existing laws when xenophobic or intolerant acts, manifestations or expressions against migrants occur, in order to eradicate impunity for those who commit xenophobic and racist acts;

11. *Requests* all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association;

12. *Encourages* all States to remove obstacles that may prevent the safe, unrestricted and expeditious transfer of remittances of migrants to their country of origin or to any other countries, in conformity with applicable legislation, and to consider, as appropriate, measures to solve other problems that may impede such transfers;

13. *Welcomes* immigration programmes, adopted by some countries, that allow migrants to integrate fully into the host countries, facilitate family reunification and promote a harmonious, tolerant and respectful environment, and encourages States to consider the possibility of adopting these types of programmes;

14. *Requests* Member States, the United Nations system, international organizations, civil society and all relevant stakeholders, especially the United Nations High Commissioner for Human Rights and the Special Rapporteur on the human rights of migrants, to ensure that the perspective of the human rights of migrants is included among the priority issues in the ongoing discussions on international migration and development within the United Nations system, bearing in mind the discussions of the High-level Dialogue on International Migration and Development held pursuant to General Assembly resolution 58/208 of 23 December 2003;

15. *Requests* the Secretary-General to report on the implementation of the present resolution at its sixty-second session and decides to examine the question further under the item entitled "Human rights questions".

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Belarus: revised draft resolution

Inadmissibility of human rights violations through the practice of secret detention and unlawful transfers

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights,[1] the International Covenants on Human Rights[2] and other applicable human rights instruments,

Reaffirming that all Member States have the obligation to promote and protect human rights and fundamental freedoms and to fulfil their international commitments under the various international instruments in this field,

Recalling the 2005 World Summit Outcome[3] and its specific provision that States must ensure that any measure taken to combat terrorism complies with their obligation under international law, in particular international human rights, refugee and humanitarian law,

Taking note of resolution 1507 (2006) and recommendation 1754 (2006) of the Parliamentary Assembly of the Council of Europe, as well as the report of the Working Group on Arbitrary Detention[4] and other relevant documents,

Recognizing that international cooperation to fight terrorism must be conducted in strict conformity with international law, including the Charter of the United Nations and relevant international conventions and protocols,

Reaffirming the obligation of all States to fully respect non-refoulement obligations under international refugee law and international human rights law, and

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] Resolution 60/1.
[4] E/CN.4/2006/7.

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the need to cooperate fully in the fight against terrorism by denying safe haven to terrorists and bringing them to justice by means of extradition or prosecution,

1. *Expresses its grave concern* at:

(a) The numerous human rights abuses committed through the practice of secret detention;

(b) The involvement of countries in the practice of secret detention and transfers of persons contrary to international law, in particular human rights, humanitarian and refugee law;

(c) The deprivation of detainees of their basic human rights, including the right to a fair trial by independent and impartial courts established by law in accordance with international human rights instruments, and failure to provide detainees with even basic forms of judicial protection by illegally detaining or transferring them;

(d) Holding detainees captive for an indefinite period of time in secret detention and failing to ensure their basic legal guarantees;

(e) Transportation of detainees, including on civilian aircraft, and the use of civilian airports or military airbases as platforms for transfers of detainees contrary to international law;

(f) Cases of ill-treatment, torture and other cruel, inhuman or degrading treatment of persons secretly detained;

(g) Using torture as a means of obtaining information, bearing in mind that detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment and can in itself constitute a form of such treatment;

2. *Urges* Member States:

(a) To fulfil their obligations under international law, including under the International Covenants on Human Rights[2] and other international human rights instruments, including provisions relating to the right to liberty and security of person, the right to challenge one's detention, freedom of movement and residence, the right to recognition everywhere as a person before the law and freedom from torture or other cruel, inhuman or degrading treatment or punishment and arbitrary arrest;

(b) To eliminate the practice of secret detention, and unlawful inter-State transfers of detainees, and ensure that anti-terrorism measures are in full conformity with international law, in particular international human rights, refugee and humanitarian law undertaken in line with the principal international human rights instruments and on the basis of the rule of law;

(c) To ensure that no one is detained arbitrarily or secretly on the national territories of Member States or on the territories within their effective control;

(d) To ensure that human rights defenders are not subjected to secret detention or transfers contrary to international law;

(e) To put an end to cases of ill-treatment, torture and other cruel, inhuman or degrading treatment of detainees;

(f) To ensure that national legal procedures provide for accountability mechanisms against human rights abuses while undertaking anti-terrorism measures;

(g) To ensure that competent authorities examine the allegation of secret detention promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation;

(h) To fully cooperate with relevant special procedures in the framework of the Human Rights Council and with the International Committee of the Red Cross on all issues regarding the secret detention of persons, particularly by granting access to detainees;

(i) To ensure that any person responsible for human rights violations in connection with secret detention or unlawful transfers is brought to justice in accordance with international human rights instruments;

3. *Invites* the appropriate human rights mechanisms to address the issue of secret detention and unlawful transfers in their reports and to make recommendations on ways to prevent the practice of secret detention and unlawful transfers;

4. *Requests* the Secretary-General to bring the present resolution to the attention of the relevant human rights bodies and mechanisms of the United Nations system.